

**Remarks**

In response to the Office Action mailed June 15, 2004, Applicants respectfully request reconsideration of the pending claims. To further prosecution of this application, Applicants submit the above amendments and the following remarks. The claims as presented are now in allowable condition.

Claims 16-57 are currently active in the application, claims 1-15 having been cancelled. Prior to entry in the U.S. national phase, the application had been amended under Chapter II of the PCT on December 1, 2000 and, contemporaneously with entry on September 10, 2001, amended by Preliminary Amendment. To remove any confusion over the claims that had been examined and the claims that had been eligible for examination, claims 1-15 have been cancelled, and new claims have been added. The new claims include the examined original PCT claims, amended to address issues raised in connection with examination (claims 16-29), PCT claims eligible for examination as of entry into the U.S. national phase (claims 30-44) and additional claims (claims 45-57).

Claims 1 (rewritten as claim 16), 2 (claim 17), 5/1, 5/2, and 15 were rejected under 35 USC §102(b) as anticipated by Smith et al. (US 4,338,985), claims 3 (claim 18), 4 (claim 19), 5/3, and 5/4 rejected under 35 USC §103(a) as unpatentable over Smith et al. in view of Holmes (US 6,026, 869). Claims 6-9 (corresponding to claims 26-29) were objected to but were said to be allowable if rewritten in independent form. Claims 10-14 (corresponding to claims 21-25) were considered to be of improper form and were not considered. Claim 15 was rejected under 35 USC §112 for being indefinite. Drawings were objected to under 37 CFR §1.84(p)(4) for use of the same number to identify two elements.

Below, new claims 16-57 are shown to distinguish over the cited art with respect to insertion of the cut tree into the chipping means. Claims 21-25 (corresponding to claims 10-14) are shown to be in proper form in view of elimination of multiple dependencies. Claim 15 has been eliminated and claims 26-29 added to reflect claims 6-9 in independent form. With the exception of claims 43 and 48, all new claims contain material previously presented in claims 1-14. No new matter has been introduced.

Claim 43 calls for a pivot arm pivotally coupled about an axis of rotation of the chipping arm and finds support in Figures 10 and 11 and on page 8, lines 11-12 of the application. Claim 44 calls for a pair of telescopically related plates where a remote end of a distant one is pivoted to a fixed point and an adjacent end of a proximal one is coupled to a pivot arm adjacent to an anvil and finds support in Figures 10-11 and on page 8, lines 12-17 of the application.

### Drawings

The specification has been amended to correct the designation of inclined path 82 as initially presented on page 6, line 29 and Figure 4 of the Application. With this correction, the basis of the objection to the drawings under 37 CFR §1.84(p)(4) is removed. No new matter has been introduced.

### Claim Objections

Claims 10-14 have been rewritten as claims 21-25 where dependencies of multiple dependent claims on other multiple dependent claims have been eliminated. As there are no instances of multiple dependent claims serving as a basis for subsequent

multiple dependent claims, the objections to claims 21-25 based on their association with claims 10-14 under 37 CFR §1.75(c) should be removed.

### **Claim Rejection under 35 USC §112**

As claim 15 has been cancelled and not introduced into the new claims, the rejection of claim 15 under 35 USC §112 is moot.

### **Claims Allowable Over the Cited Art**

Claim 16 is directed to a tree harvesting apparatus that includes a rotary saw for cutting a tree near ground level and a transport means for gripping a tree cut by the saw and transporting the tree to and dropping the cut tree in a chipping means. As noted in the specification, “[t]he tree is transported in a substantially upright or vertical orientation. When it reaches the end of the inclined path 82, it is dropped into the chipper 18.” (See application, page 9, lines 15-17.)

Smith et al. (US 4,338,985) describe a tree harvester where the butt end of a cut tree is deflected upward against a lower roller and into the throat between upper and lower rollers. The counterrotating rollers draw in the cut tree and propel it over and rearwardly into the chipper in a horizontal orientation. (See Smith et al. column 6, lines 24-30 and Figure 11.)

Smith et al. do not teach dropping a cut tree into a chipping means. In contrast, from the moment the tree is cut, the cut tree in the Smith harvester is propelled laterally into the chipper. At no point does the cut tree of the Smith harvester fall under its own weight, i.e., drop, into the chipper, as is required by claim 1. Claim 16 consequently

distinguishes from the cited art and is in condition for allowance. Claims 17-25 dependent from claim 16 are allowable for at least the same reasons.

Claims 26-29 are based upon claims 10-14 rewritten in independent form and are allowable as indicated on page 4 of the Office Action.

#### Further Additional Claims

New claim 30 is directed to a tree harvesting apparatus that includes a rotary saw for cutting a tree, a transport means for dropping the tree in a chipping means where the chipping means is provided with a rotary chipping drum and a controllably moveable anvil to vary the angle of incidence of the tree onto the chipping drum. Mounted on a vehicle driven along a row of trees, the tree harvesting apparatus can continuously cut and chip the trees. (See Figures 1 and 10).

New claim 45 is directed to a tree harvesting apparatus that includes a rotary saw for cutting a tree, a transporter for dropping the tree into a chipper where the chipper is provided with a rotary chipping drum and a controllably moveable anvil to vary the angle of incidence of the tree onto the chipping drum. The transporter contains first and second opposed conveyors, each with laterally extending fingers for gripping the tree. The first conveyor comprises a first endless loop chain, the second conveyor comprises second and third endless loop chains where the second and third endless loop chains are vertically spaced from each other and the first chain located vertically intermediate the second and third endless chains. (See Figures 1, 4, 5, and 10).

New claim 51 is directed to a tree harvesting method comprising providing a vehicle with a rotary saw, a transporter, and a chipper with a rotary chipping drum,

cutting a tree near ground level with the rotary saw, operating the transporter to transport the cut tree to the chipper, dropping the cut tree into the chipper, and directing the cut tree onto the rotary chipping drum to chip the cut tree. (See application page 5, lines 1-15 and Figures 1 and 2).

New independent claims 30, 45, and 51 and claims dependent from them find support in the application including Figures 1-14 and original claims 1-15. No new matter has been introduced.

In view of the foregoing amendments and remarks, this application is now in condition for allowance, and a notice to this effect is respectfully requested. If the Examiner believes, after these amendments, that the application is not in condition for allowance, the Examiner is invited to call the Applicants' attorney at the number listed below.

Respectfully submitted,

  
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